

104TH CONGRESS  
1ST SESSION

# S. 1394

To amend the Immigration and Nationality Act to reform the legal immigration of immigrants and nonimmigrants to the United States.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 3, 1995

Mr. SIMPSON introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend the Immigration and Nationality Act to reform the legal immigration of immigrants and nonimmigrants to the United States.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE; REFERENCES IN ACT.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Immigration Reform Act of 1995”.

6       (b) REFERENCES IN ACT.—Except as specifically  
7       provided in this Act, whenever in this Act an amendment  
8       or repeal is expressed as an amendment or repeal of a  
9       provision, the reference shall be deemed to be made to the  
10      Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

1 **SEC. 2. TABLE OF CONTENTS.**

2 The table of contents for this Act is as follows:

Sec. 1. Short title; references in Act.

Sec. 2. Table of contents.

TITLE I—IMMIGRANTS

Subtitle A—Changes in Immigrant Classifications

Sec. 101. Immediate relative classification.

Sec. 102. Family-sponsored preference classifications.

Sec. 103. Employment-based preference classifications.

Sec. 104. Labor certification.

Sec. 105. Special immigrant classifications.

Sec. 106. Effect of approved immigrant visa petition.

Sec. 107. Judicial review.

Sec. 108. Conforming amendments and repeals.

Sec. 109. Transition.

Subtitle B—Changes in Numerical Limitations on Immigrants

Sec. 111. Worldwide numerical limitation on family-sponsored immigration.

Sec. 112. Worldwide numerical limitation on employment-based immigration.

Sec. 113. Numerical limitation on immigration from a single foreign State.

Sec. 114. Transition for certain backlogged spouses and children of lawful permanent residents.

Sec. 115. Congressional review of numerical limitations.

TITLE II—NONIMMIGRANTS

Sec. 201. Changes in H and L classifications.

Sec. 202. Changes in H-1b classification.

Sec. 203. Changes in L classification.

Sec. 204. Changes in B, F, J, and M classifications.

Sec. 205. Pilot program on information and tracking system relating to non-immigrant foreign students.

TITLE III—EFFECTIVE DATE

Sec. 301. Effective date.

3 **TITLE I—IMMIGRANTS**

4 **Subtitle A—Changes in Immigrant**  
5 **Classifications**

6 **SEC. 101. IMMEDIATE RELATIVE CLASSIFICATION.**

7 (a) RECLASSIFICATION.—Section 201(b)(2)(A) (8

8 U.S.C. 1151(b)(2)(A)) is amended in clause (i)—

9 (1) by inserting “(I)” before “For purposes”;

1           (2) by striking “parents of a citizen of the  
 2       United States” and inserting in lieu thereof the fol-  
 3       lowing: “qualifying parents of a citizen of the United  
 4       States, as defined in subclause (II)”; and

5           (3) by inserting after “remarries” the following  
 6       new subclause:

7                               “(II) For purposes of this clause,  
 8                               the term ‘qualifying parent’ means a  
 9                               parent who is at least 65 years of age,  
 10                              and the greatest number of whose  
 11                              sons and daughters normally reside in  
 12                              the United States as nationals of the  
 13                              United States or aliens lawfully ad-  
 14                              mitted for permanent residence.”.

15       (b) INSURANCE REQUIREMENT FOR PARENTS.—Sec-  
 16       tion 212(a)(4) (8 U.S.C. 1182(a)(4)) is amended—

17           (1) by striking “(4) PUBLIC CHARGE.—Any”  
 18       and inserting in lieu thereof “(4) PUBLIC  
 19       CHARGE.—

20                              “(A) IN GENERAL.—Any”; and

21           (2) by adding at the end the following new sub-  
 22       paragraph:

23                              “(B) INSURANCE REQUIREMENT FOR PAR-  
 24       ENTS.—

1           “(i) IN GENERAL.—Any alien who  
2 seeks admission as a parent of a United  
3 States citizen under section  
4 201(b)(2)(A)(i) is inadmissible unless the  
5 alien or a petitioning son or daughter dem-  
6 onstrates at the time of issuance of the  
7 visa to the satisfaction of the consular offi-  
8 cer and at the time of admission to the  
9 satisfaction of the Attorney General that  
10 the alien—

11           “(I) will have coverage under an  
12 adequate health insurance policy (at  
13 least comparable to coverage provided  
14 under the medicare program under  
15 title XVIII of the Social Security  
16 Act); and

17           “(II) will have coverage with re-  
18 spect to long-term health needs (at  
19 least comparable to such coverage  
20 provided under the medicaid program  
21 under title XIX of such Act for the  
22 State in which either the alien intends  
23 to reside or in which the petitioner  
24 (on behalf of the alien under section  
25 204(a)(1)) resides,

1 throughout the period the alien resides in  
2 the United States.

3 “(ii) FACTORS TO BE TAKEN INTO AC-  
4 COUNT.—In making a determination under  
5 clause (i), the Attorney General or the con-  
6 sular officer shall take into account the age  
7 of the parent and the likelihood of the par-  
8 ent’s securing health insurance coverage  
9 through employment.

10 “(iii) REQUIREMENTS.—Such peti-  
11 tioning son or daughter shall not be deter-  
12 mined to have demonstrated that the alien  
13 will have the insurance coverage required  
14 in clause (i) unless such son or daughter  
15 has agreed to provide such coverage as  
16 part of an affidavit of support that has  
17 been executed as a contract which—

18 “(I) is legally enforceable against  
19 such son or daughter by the spon-  
20 sored parent, by the Federal Govern-  
21 ment, and by any State, district, terri-  
22 tory, or possession of the United  
23 States (or any subdivision of such  
24 State, district, territory, or possession  
25 of the United States) which provides

1 any financial or medical assistance for  
2 which eligibility is based on need, and

3 “(II) otherwise satisfies the re-  
4 quirements of all Federal statutes re-  
5 lating to such sponsor affidavits of  
6 support presented to satisfy the re-  
7 quirements of this section.

8 “(iv) CIVIL PENALTY.—(I) Except as  
9 otherwise provided in clause (v), any spon-  
10 sor who is determined, after notice and op-  
11 portunity for an administrative hearing,  
12 pursuant to regulations of the Attorney  
13 General, to have failed to provide the in-  
14 surance such sponsor has agreed to provide  
15 in the affidavit described in clause (iii)  
16 shall be subject to a civil penalty of \$5,000  
17 for the first such failure and \$10,000 for  
18 the second and subsequent failures, and to  
19 an administrative order requiring the pro-  
20 viding of such insurance.

21 “(II) A sponsor adversely affected by  
22 such an administrative order, may, within  
23 45 days after the date such order was is-  
24 sued (or, if an administrative appeal is  
25 available, after the conclusion of that ap-

1           peal), file a petition in the Court of Ap-  
2           peals for the appropriate circuit for review  
3           of the order. Any such review shall be sole-  
4           ly on the administrative record, and the  
5           court must affirm the order unless it is  
6           clearly erroneous.

7           “(III)(aa) If a sponsor fails to comply  
8           with an administrative order referred to in  
9           subclause (I), the Attorney General shall  
10          file a suit to seek compliance with the  
11          order in any appropriate district court of  
12          the United States.

13          “(bb) In any such suit, the determina-  
14          tion that the sponsor had not provided the  
15          insurance he had agreed to provide shall  
16          not be subject to review.

17          “(v) EXEMPTION.—A sponsor shall  
18          not be subject to the provisions of clause  
19          (iv) if the failure to provide such insurance  
20          is the result of changes in the sponsor’s fi-  
21          nancial circumstances, changes which  
22          would mean that if such insurance were  
23          provided, then the total income of the  
24          sponsor and other members of his house-  
25          hold, minus the cost of providing such in-

1           surance, would be below the official poverty  
 2           line (as defined by the Social Security Ad-  
 3           ministration, and revised annually by the  
 4           Secretary of Health and Human Services)  
 5           that is applicable to a family the size of  
 6           the sponsor’s household.”.

7   **SEC. 102. FAMILY-SPONSORED PREFERENCE CLASSIFICA-**  
 8                                   **TIONS.**

9           Section 203(a) (8 U.S.C. 1153(a)) is amended to  
 10 read as follows:

11           “(a) PREFERENCE ALLOCATION FOR FAMILY-SPON-  
 12 SORED IMMIGRANTS.—Qualified immigrants who are the  
 13 spouses or children of an alien lawfully admitted for per-  
 14 manent residence shall be allotted visas in a number not  
 15 to exceed 85,000.”.

16   **SEC. 103. EMPLOYMENT-BASED PREFERENCE CLASSIFICA-**  
 17                                   **TIONS.**

18           (a) PREFERENCE ALLOCATION FOR EMPLOYMENT-  
 19 BASED IMMIGRANTS.—Section 203(b) (8 U.S.C. 1153(b))  
 20 is amended by striking paragraphs (1) through (6) and  
 21 inserting in lieu thereof the following:

22           “(1) IMMIGRANTS WHO ARE EXEMPT FROM THE  
 23 LABOR CERTIFICATION REQUIREMENT.—

24           “(A) ALIENS WITH EXTRAORDINARY ABIL-  
 25 ITY.—Visas shall be made available in a num-



1           ber not to exceed 90,000 to qualified immi-  
2           grants (including, but not limited to, professors  
3           and researchers)—

4                   “(i) who have—

5                           “(I) extraordinary ability in the  
6                           sciences, arts, education, business, or  
7                           athletics, which has been dem-  
8                           onstrated by sustained national or  
9                           international acclaim and whose  
10                          achievements have been recognized in  
11                          the field through extensive docu-  
12                          mentation; or

13                          “(II) the potential for extraor-  
14                          dinary achievement in the sciences,  
15                          arts, education, or business, a poten-  
16                          tial that has been shown through ex-  
17                          tensive documentation of their record  
18                          over a 10-year period after the com-  
19                          pletion of formal education or train-  
20                          ing, including their receipt of inter-  
21                          nationally recognized prizes and the  
22                          testimony of appropriate experts;

23                          “(ii) who seek to be admitted into the  
24                          United States to continue work in the area

1 of extraordinary ability or the potential for  
2 extraordinary achievement; and

3 “(iii) whose admission into the United  
4 States will substantially benefit prospec-  
5 tively the United States.

6 “(B) CERTAIN MULTINATIONAL EXECU-  
7 TIVES AND MANAGERS.—

8 “(i) ALLOCATION OF NUMBERS.—  
9 Visas shall be made available in a number  
10 not to exceed the difference between  
11 90,000 and the number of visas required  
12 for the class specified in subparagraph (A),  
13 to qualified immigrants—

14 “(I) who, in the 5 years preced-  
15 ing the time of the alien’s application  
16 for classification and admission into  
17 the United States under this para-  
18 graph, or the alien’s admission into  
19 the United States as a nonimmigrant  
20 described in section 101(a)(15)(L),  
21 have been either employed outside the  
22 United States in a managerial or ex-  
23 ecutive capacity for at least 3 years by  
24 a multinational firm, as defined in  
25 clause (ii), or employed outside the

1 United States in such capacity both  
2 for at least 1 year by a multinational  
3 firm, as defined in subparagraph (B),  
4 and for at least 3 years by one or  
5 more other firms; and

6 “(II) who seek to enter the Unit-  
7 ed States in order to continue to  
8 render services to the same multi-  
9 national firm referred to in subclause  
10 (I), or to a subsidiary or other affili-  
11 ate (under substantially common own-  
12 ership) thereof, in a capacity that is  
13 managerial or executive.

14 “(ii) DEFINITION.—For purposes of  
15 this section, the term ‘multinational firm’  
16 means a corporation or other legal entity  
17 that has a work force of full-time perma-  
18 nent employees which totals, when added  
19 to the total work force of full-time perma-  
20 nent employees of its subsidiaries (or other  
21 affiliates under substantially common own-  
22 ership), at least 100 persons, and that—

23 “(I) employs on a full-time per-  
24 manent basis at least 20 persons in  
25 the United States who are citizens or

1 lawful permanent residents of the  
2 United States; and either

3 “(II) employs, or whose subsidi-  
4 ary (or other affiliate under substan-  
5 tially common ownership) employs, on  
6 a full-time permanent basis at least  
7 10 persons in each of at least two for-  
8 eign states or dependent areas; or

9 “(III) employs, or whose subsidi-  
10 ary (or other affiliate under substan-  
11 tially common ownership) employs, on  
12 a full-time permanent basis at least  
13 20 persons in a single foreign state or  
14 dependent area.

15 “(C) INVESTORS.—Visas shall be made  
16 available in a number not to exceed the dif-  
17 ference between 90,000 and the number of  
18 visas required for the classes specified in sub-  
19 paragraphs (A) and (B), to qualified immi-  
20 grants seeking to enter the United States for  
21 the purpose of engaging in a new commercial  
22 enterprise—

23 “(i) which the alien has established;

24 “(ii) in which such alien has invested  
25 (after the date of the enactment of the Im-

1 migration Act of 1990), or, is actively in  
2 the process of investing, capital in an  
3 amount not less than \$1,000,000; and

4 “(iii) which will benefit the United  
5 States economy and create full-time em-  
6 ployment for not fewer than 10 United  
7 States citizens or aliens lawfully admitted  
8 for permanent residence (other than the  
9 immigrant and the immigrant’s spouse,  
10 sons, or daughters).

11 “(D) CERTAIN SPECIAL IMMIGRANTS.—  
12 Visas shall be made available in a number not  
13 to exceed 5,000, to qualified special immigrants  
14 described in section 101(a)(27) (other than  
15 those described in subparagraph (A) or (B)  
16 thereof), of which not more than 3,500 may be  
17 made available in any fiscal year to special im-  
18 migrants described in section 101(a)(27)(C).

19 “(2) IMMIGRANTS WHO ARE SUBJECT TO THE  
20 LABOR CERTIFICATION REQUIREMENT.—

21 “(A) ALIENS WHO ARE MEMBERS OF THE  
22 PROFESSIONS HOLDING ADVANCED DEGREES.—  
23 Visas shall be made available in a number not  
24 to exceed—

1           “(i) 50 percent of the difference be-  
2           tween 90,000 and the number of visas re-  
3           quired for the classes specified in subpara-  
4           graph (1), plus

5           “(ii) the number of visas not required  
6           for the class specified in subparagraph (B),  
7           to qualified immigrants—

8           “(I) who are members of the pro-  
9           fessions holding either—

10                   “(aa) an advanced degree;  
11                   or

12                   “(bb) both a baccalaureate  
13                   degree and the equivalent of an  
14                   advanced degree;

15           “(II) who have a total of 3 years  
16           of experience in the profession outside  
17           the United States after obtaining such  
18           advanced degree or equivalent;

19           “(III) whose services in the  
20           sciences, arts, professions, or business  
21           are sought by an employer in the  
22           United States; and

23           “(IV) who have satisfied the re-  
24           quirement specified in subsection (c).

1           “(B) PROFESSIONALS WITH BACCA-  
2 LAUREATE DEGREES.—Visas shall be made  
3 available in a number not to exceed—

4           “(i) 50 percent of the difference be-  
5 tween 90,000 and the number of visas re-  
6 quired for the classes specified in para-  
7 graph (1); plus

8           “(ii) the number of visas not required  
9 for the class specified in subparagraph (A),  
10 to qualified immigrants—

11           “(I) who are members of the pro-  
12 fessions holding a baccalaureate de-  
13 gree;

14           “(II) who have a total of 5 years  
15 of experience in the profession outside  
16 the United States after receipt of such  
17 degree;

18           “(III) whose services in the  
19 sciences, arts, professions, or business  
20 are sought by an employer in the  
21 United States; and

22           “(IV) who have satisfied the re-  
23 quirement specified in subsection (c).

24           “(C) SKILLED WORKERS.—Visas shall be  
25 made available in a number not to exceed the

1 difference between 90,000 and the number of  
2 visas required for the classes specified in para-  
3 graph (1) and subparagraphs (A) and (B), to  
4 qualified immigrants who—

5 “(i) are capable, at the time of peti-  
6 tioning for classification under this clause,  
7 of performing skilled labor which is not of  
8 a temporary or seasonal nature and is of  
9 a kind that requires at least 2 years train-  
10 ing or experience (or combination of both);

11 “(ii) have received at least a high  
12 school education, plus at least 2 years of  
13 college or of post-high school specialized  
14 vocational training;

15 “(iii) have a total of 5 years of experi-  
16 ence in such skilled labor outside the Unit-  
17 ed States after obtaining the training or  
18 experience (or the combination of both)  
19 specified in clause (i);

20 “(iv) whose services are sought by an  
21 employer in the United States; and

22 “(v) who have satisfied the require-  
23 ments specified in subsection (c).

24 A visa may not be issued to an alien under this  
25 paragraph until the consular officer is in receipt



1 of a determination made by the Secretary of  
2 Labor pursuant to the provisions of section  
3 212(a)(5)(A).”.

4 (b) REPEAL OF DIVERSITY CLASSIFICATION.—Sec-  
5 tion 201(a) (8 U.S.C. 1151(a)) is amended—

6 (1) in paragraph (1), by inserting “and” after  
7 the semicolon;

8 (2) in paragraph (2), by striking “and” and in-  
9 serting in lieu thereof a period; and

10 (3) by striking paragraph (3).

11 (c) ENGLISH REQUIREMENT.—Section 203 (8 U.S.C.  
12 1153) is amended by striking subsection (c) and inserting  
13 in lieu thereof the following:

14 “(c) ENGLISH REQUIREMENT.—The requirement  
15 specified in this subsection is that an alien described in  
16 subsection (b)(2) must have the ability to read, write, and  
17 speak the English language at a level required for stand-  
18 ard business communication, as demonstrated by their  
19 score on one or more standardized tests.”.

20 (d) CONDITIONAL PERMANENT RESIDENT STATUS  
21 FOR IMMIGRANTS WHO ARE SUBJECT TO THE LABOR  
22 CERTIFICATION REQUIREMENT.—Section 203 is amended  
23 by adding at the end the following new subsection:

1       “(h) CONDITIONAL PERMANENT RESIDENT STATUS  
2 FOR IMMIGRANTS WHO ARE SUBJECT TO THE LABOR  
3 CERTIFICATION REQUIREMENT.—

4               “(1) IN GENERAL.—

5                       “(A) CONDITIONAL BASIS FOR STATUS.—

6               Notwithstanding any other provision of this  
7               Act, an alien obtaining the status of an alien  
8               lawfully admitted for permanent residence  
9               under paragraph (2) of subsection (b) shall be  
10              considered, at the time of obtaining such status,  
11              to have obtained such status on a conditional  
12              basis subject to the provisions of this sub-  
13              section.

14                      “(B) NOTICE OF REQUIREMENTS.—

15                              “(i) AT TIME OF OBTAINING PERMA-  
16                              NENT RESIDENCE.—At the time an alien  
17                              obtains permanent resident status on a  
18                              conditional basis under subparagraph (A),  
19                              the Attorney General shall provide for no-  
20                              tice to such alien respecting the provisions  
21                              of this subsection and the requirements of  
22                              paragraph (3)(A) to have the conditional  
23                              basis of such status removed.

24                                      “(ii) AT TIME OF REQUIRED PETI-  
25                                      TION.—In addition, the Attorney General

1           shall attempt to provide notice to such  
2           alien at or about the beginning of the 90-  
3           day period described in clause (i) of para-  
4           graph (4)(B), of the requirements of para-  
5           graph (3)(A).

6           “(iii) EFFECT OF FAILURE TO PRO-  
7           VIDE NOTICE.—The failure of the Attorney  
8           General to provide a notice under this  
9           paragraph shall not affect the enforcement  
10          of the provisions of this section with re-  
11          spect to such alien.

12          “(2) TERMINATION OF STATUS IF ALIEN IS NO  
13          LONGER WITH EMPLOYER OR HAS NOT BEEN PAID  
14          ATTESTED WAGE.—

15          “(A) IN GENERAL.—In the case of an alien  
16          with permanent resident status on a conditional  
17          basis under paragraph (1), if the Attorney Gen-  
18          eral determines, before the second anniversary  
19          of the alien’s obtaining the status of lawful ad-  
20          mission for permanent residence, that—

21                  “(i) such alien was no longer em-  
22                  ployed by the employer that had petitioned  
23                  for such alien; or

1           “(ii) such alien had not been paid the  
2           compensation specified under section  
3           212(a)(5)(A)(ii),  
4           the Attorney General shall so notify the alien  
5           and, subject to subparagraph (B), shall termi-  
6           nate the permanent resident status of the alien  
7           (or aliens) involved as of the date of the deter-  
8           mination.

9           “(B) HEARING IN DEPORTATION PRO-  
10          CEEDING.—Any alien whose permanent resident  
11          status is terminated under subparagraph (A)  
12          may request a review of such determination in  
13          a proceeding to deport the alien. In such pro-  
14          ceeding, the burden of proof shall be on the At-  
15          torney General to establish, by a preponderance  
16          of the evidence, that a condition described in  
17          subparagraph (A) is met.

18          “(3) REQUIREMENTS OF TIMELY PETITION AND  
19          INTERVIEW FOR REMOVAL OF CONDITION.—

20                 “(A) IN GENERAL.—In order for the condi-  
21          tional basis established under paragraph (1) for  
22          an alien to be removed—

23                 “(i) the alien must submit to the At-  
24          torney General, during the period de-  
25          scribed in subparagraph (4)(B), a petition

1 which requests the removal of such condi-  
2 tional basis and which states, under pen-  
3 alty of perjury, the facts and information  
4 described in subparagraph (4)(A); and

5 “(ii) in accordance with subparagraph  
6 (4)(C), the alien and the petitioning em-  
7 ployer must appear for a personal inter-  
8 view before an officer or employee of the  
9 Service respecting the facts and informa-  
10 tion described in subparagraph (4)(A).

11 “(B) TERMINATION OF PERMANENT RESI-  
12 DENT STATUS FOR FAILURE TO FILE PETITION  
13 OR HAVE PERSONAL INTERVIEW.—

14 “(i) IN GENERAL.—In the case of an  
15 alien with permanent resident status on a  
16 conditional basis under paragraph (1), if—

17 “(I) no petition is filed with re-  
18 spect to the alien in accordance with  
19 the provisions of clause (i) of subpara-  
20 graph (A); or

21 “(II) unless there is good cause  
22 shown, the alien fails to appear at the  
23 interview described in clause (ii) of  
24 subparagraph (A),

1 the Attorney General shall terminate the  
2 permanent resident status of the alien as  
3 of the second anniversary of the alien's  
4 lawful admission for permanent residence.

5 “(ii) HEARING IN DEPORTATION PRO-  
6 CEEDING.—In any deportation proceeding  
7 with respect to an alien whose permanent  
8 resident status is terminated under clause  
9 (i), the burden of proof shall be on the  
10 alien to establish compliance with the con-  
11 ditions of clauses (i) and (ii) of subpara-  
12 graph (A).

13 “(C) DETERMINATION AFTER PETITION  
14 AND INTERVIEW.—

15 “(i) IN GENERAL.—If—

16 “(I) a petition is filed in accord-  
17 ance with the provisions of clause (i)  
18 of subparagraph (A); and

19 “(II) the alien and petitioning  
20 employer appear at the interview de-  
21 scribed in clause (ii) of subparagraph  
22 (A),

23 the Attorney General shall make a deter-  
24 mination, within 90 days of the date of the  
25 interview, as to whether the facts and in-

1 formation described in subparagraph  
2 (4)(A) and alleged in the petition are true.

3 “(ii) REMOVAL OF CONDITIONAL  
4 BASIS IF FAVORABLE DETERMINATION.—If  
5 the Attorney General determines that such  
6 facts and information are true, the Attor-  
7 ney General shall so notify the alien and  
8 shall remove the conditional basis of the  
9 alien effective as of the second anniversary  
10 of the alien’s obtaining the status of lawful  
11 admission for permanent residence.

12 “(iii) TERMINATION IF ADVERSE DE-  
13 TERMINATION.—If the Attorney General  
14 determines that such facts and information  
15 are not true, the Attorney General shall so  
16 notify the alien and, subject to clause (iv),  
17 shall terminate the permanent resident sta-  
18 tus of the alien as of the date of the deter-  
19 mination.

20 “(iv) HEARING IN DEPORTATION PRO-  
21 CEEDING.—Any alien whose permanent  
22 resident status is terminated under clause  
23 (iii) may request a review of such deter-  
24 mination in a proceeding to deport the  
25 alien. In such proceeding, the burden of

1 proof shall be on the Attorney General to  
2 establish, by a preponderance of the evi-  
3 dence, that the facts and information de-  
4 scribed in subparagraph (4)(A) and alleged  
5 in the petition are not true.

6 “(D) WAIVER.—The Attorney General, in  
7 the Attorney General’s discretion, may remove  
8 the conditional basis of the permanent resident  
9 status for an alien who fails to meet the re-  
10 quirements of subparagraph (A) if the alien  
11 demonstrates that—

12 “(i) the employment was entered into  
13 in good faith by the alien, but the employ-  
14 ment has been terminated or the wages  
15 specified under section 212(n)(1)(A) have  
16 not been paid, for reasons beyond the  
17 alien’s control, including through layoffs or  
18 business failure, and the alien was not at  
19 fault in failing to meet the requirements of  
20 subparagraph (A); or

21 “(ii) the employment was entered into  
22 in good faith by the alien, but the employ-  
23 ment ended because the employer was en-  
24 gaged in an unfair labor practice that was  
25 causing or threatening to cause significant



1 injury to the alien, and the alien was not  
2 at fault in failing to meet the requirements  
3 of subparagraph (A).

4 In acting on applications under this subpara-  
5 graph, the Attorney General shall consider any  
6 credible evidence relevant to the application.  
7 The determination of what evidence is credible  
8 and the weight to be given that evidence shall  
9 be within the sole discretion of the Attorney  
10 General.

11 “(4) DETAILS OF PETITION AND INTERVIEW.—

12 “(A) CONTENTS OF PETITION.—Each peti-  
13 tion under clause (i) of paragraph (3)(A) shall  
14 state that—

15 “(i) during the 2-year period, the  
16 alien has been employed continuously by  
17 the petitioning employer and has been paid  
18 at least the wage specified under section  
19 212(n)(1)(A); and

20 “(ii) no fee or other consideration was  
21 given by the alien for the petitioning em-  
22 ployer’s filing of a petition under section  
23 204(a) with respect to the alien.

24 “(B) PERIOD FOR FILING PETITION.—

1           “(i) 90-DAY PERIOD BEFORE SECOND  
2 ANNIVERSARY.—Except as provided in  
3 clause (ii), the petition under clause (i) of  
4 paragraph (3)(A) must be filed during the  
5 90-day period before the second anniver-  
6 sary of the alien’s obtaining the status of  
7 lawful admission for permanent residence.

8           “(ii) LATE PETITIONS FOR GOOD  
9 CAUSE.—Such a petition may be consid-  
10 ered if filed after such date, but only if the  
11 alien establishes to the satisfaction of the  
12 Attorney General good cause and extenuat-  
13 ing circumstances for failure to file the pe-  
14 tition during the period described in clause  
15 (i).

16           “(iii) FILING OF PETITIONS DURING  
17 DEPORTATION.—In the case of an alien  
18 who is the subject of deportation hearings  
19 as a result of failure to file a petition on  
20 a timely basis in accordance with clause  
21 (i), the Attorney General may stay such  
22 deportation proceedings against an alien  
23 pending the filing of the petition under  
24 clause (ii).

1           “(C) PERSONAL INTERVIEW.—The inter-  
2           view under clause (ii) of paragraph (3)(A) shall  
3           be conducted within 90 days after the date of  
4           submitting a petition under clause (i) of para-  
5           graph (3)(A) and at a local office of the Serv-  
6           ice, designated by the Attorney General, which  
7           is convenient to the alien. The Attorney Gen-  
8           eral, in the Attorney General’s discretion, may  
9           waive the deadline for such an interview or the  
10          requirement for such an interview in such cases  
11          as may be appropriate.

12          “(5) TREATMENT OF PERIOD FOR PURPOSES  
13          OF NATURALIZATION.—For purposes of title III, in  
14          the case of an alien who is in the United States as  
15          a lawful permanent resident on a conditional basis  
16          under this section, the alien shall be considered to  
17          have been admitted as an alien lawfully admitted for  
18          permanent residence and to be in the United States  
19          as an alien lawfully admitted to the United States  
20          for permanent residence.

21          “(6) TREATMENT OF CERTAIN WAIVERS.—In  
22          the case of an alien who has permanent residence  
23          status on a conditional basis under this section, if,  
24          in order to obtain such status, the alien obtained a  
25          waiver under subsection (h) or (i) of section 212 of

1 certain grounds of exclusion, such waiver terminates  
2 upon the termination of such permanent residence  
3 status under this section.

4 “(7) DEFINITIONS.—In this section:

5 “(A) The term ‘alien employee’ means an  
6 alien who obtains the status of an alien lawfully  
7 admitted for permanent residence (whether on  
8 a conditional basis or otherwise) by virtue of  
9 employment, under section 203(b)(2).

10 “(B) The term ‘qualifying employment’  
11 means employment that is the basis for ap-  
12 proval of a petition for a classification under  
13 section 203(b)(2).

14 “(C) The term ‘petitioning employer’  
15 means the employer of the alien in connection  
16 with the qualifying employment.

17 “(8) JUDICIAL REVIEW.—The termination or  
18 removal of conditional resident status under this sec-  
19 tion shall not be subject to judicial review except as  
20 part of a final order of deportation under section  
21 106 of this Act.”.

22 **SEC. 104. LABOR CERTIFICATION.**

23 Section 212(a)(5) (8 U.S.C. 1182(a)(5)) is amend-  
24 ed—

1           (1) by amending subparagraph (A) to read as  
2 follows:

3           “(A) LABOR CERTIFICATION.—Any alien  
4 who seeks to enter the United States under the  
5 classifications described in section 203(b)(2) is  
6 excludable, unless the Secretary of Labor has  
7 determined and certified to the Secretary of  
8 State and the Attorney General that the em-  
9 ployer who is seeking the services of such alien  
10 has—

11           “(i) paid the fee described in subpara-  
12 graph (D); and

13           “(ii) attempted to recruit a citizen of  
14 the United States or an alien lawfully ad-  
15 mitted for permanent residence for the job  
16 that will be done by the alien whose serv-  
17 ices are being sought, using recruitment  
18 procedures that meet industry-wide stand-  
19 ards and offering compensation equal in  
20 value to at least 105 percent of the prevail-  
21 ing compensation for individuals in such  
22 employment (including wages, benefits, and  
23 all other compensation).”;

24           (2) in subparagraph (C) by striking “or (3)”;

25 and

1           (3) by inserting after subparagraph (C) the fol-  
2       lowing new subparagraphs:

3           “(D)(i) The fee described in this subpara-  
4       graph is a fee—

5           “(I) which is equal to 25 percent of  
6       the value of the annual compensation (in-  
7       cluding wages, benefits, and all other com-  
8       pensation) to be paid to the alien whose  
9       services are being sought; and

10          “(II) which has been paid by the peti-  
11       tioning employer into a private fund cer-  
12       tified by the Secretary of Labor as dedi-  
13       cated to the goal of increasing the competi-  
14       tiveness of workers who are citizens or law-  
15       ful permanent residents of the United  
16       States and reducing the dependence of em-  
17       ployers on new foreign workers, by making  
18       grants for education or training, or for  
19       other purposes consistent with such goal.

20          “(ii)(I) It is unlawful for a petitioning em-  
21       ployer to require, as a condition of employment  
22       by such employer or otherwise, that the fee de-  
23       scribed in this subparagraph, or any part of it,  
24       be paid directly or indirectly by the alien whose  
25       services are being sought.

1           “(II) Any person or entity which is deter-  
2           mined, after notice and opportunity for an ad-  
3           ministrative hearing, to have violated subclause  
4           (I) shall be subject to a civil penalty of \$5,000  
5           for each violation, to an administrative order  
6           requiring the payment of the fee described in  
7           this subparagraph, and to disqualification for 1  
8           year from petitioning under section 204 or  
9           214(c).

10           “(III) Any amount determined to have  
11           been paid, directly or indirectly, to the fund by  
12           the alien whose services were sought, shall be  
13           repaid from the fund to such alien.

14           “(E)(i) If the Secretary of Labor deter-  
15           mines that a nationwide labor shortage exists in  
16           the United States with respect to an occupa-  
17           tion, a certification under section 212(a)(5)(A)  
18           shall be deemed to have been issued with re-  
19           spect to an alien who has such occupation and  
20           for whom a petition has been submitted under  
21           section 203(b)(2), except that payment of the  
22           fee referred to in subparagraph (A) shall still be  
23           required and must be paid before a petition for  
24           classification under section 203(b)(2) may be  
25           approved.

1           “(ii) If the Secretary of Labor determines  
2           that a labor surplus exists in the United States  
3           with respect to an occupation, a certification  
4           under section 212(a)(5)(A) for petitions for  
5           that occupation may not be issued.

6           “(iii) Any person may request that the  
7           Secretary of Labor make a determination de-  
8           scribed in clause (i) or (ii), by submitting evi-  
9           dence bearing on such determination.

10          “(iv) The burden of proving that a labor  
11          shortage or surplus exists in the United States  
12          with respect to an occupation shall be on the  
13          person or group requesting that the Secretary  
14          of Labor make a determination described in  
15          clause (i) or (ii).

16          “(v) No request for a determination de-  
17          scribed in clause (i) or (ii) may be considered  
18          unless the person or group making the request  
19          has provided notice of the request to all persons  
20          who the Secretary of Labor has determined, in  
21          his sole, unreviewable discretion, are interested  
22          parties.

23          “(vi) Any person may submit to the Sec-  
24          retary of Labor documentary evidence bearing



1           on a request for a determination described in  
2           clause (i) or (ii).”.

3 **SEC. 105. SPECIAL IMMIGRANT CLASSIFICATIONS.**

4           (a) SPECIAL IMMIGRANT STATUS FOR CERTAIN DIS-  
5 ABLED SONS AND DAUGHTERS OF UNITED STATES CITI-  
6 ZENS AND PERMANENT RESIDENTS.—Section 101(a)(27)  
7 is amended—

8           (1) by striking the period at the end of sub-  
9 paragraph (K) and inserting in lieu thereof “; or”;  
10 and

11           (2) by adding at the end the following new sub-  
12 paragraph:

13           “(L) an immigrant who is the disabled son  
14 or daughter (as defined in section 101(a)(47))  
15 of an alien lawfully admitted for permanent res-  
16 idence or a United States citizen, and who is  
17 accompanying or following to join such alien or  
18 citizen for the purpose of permanently residing  
19 with such alien or citizen.”.

20           (b) DEFINITION OF DISABLED SON OR DAUGH-  
21 TER.—Section 101(a) of the Immigration and Nationality  
22 Act is amended by adding at the end the following new  
23 paragraph:

24           “(47)(A) For purposes of section 101(a)(27)(B), and  
25 except as provided in subparagraph (B), the term ‘dis-

1 abled son or daughter’ means a son or daughter who has  
2 a severe mental or physical impairment, or combination  
3 of mental or physical impairments, which—

4 “(i) is likely to continue indefinitely; and

5 “(ii) causes substantially total inability to per-  
6 form functions necessary for independent living.

7 “(B) No son or daughter may be considered to be  
8 a disabled son or daughter within the meaning of this  
9 paragraph on the basis, in whole or in part, of any physical  
10 or mental impairment if such son or daughter and the law-  
11 ful permanent resident or citizen of the United States who  
12 is their parent have not sought the amelioration of this  
13 impairment through medical treatment to the maximum  
14 extent reasonably possible given their ability and re-  
15 sources.”.

16 (c) INSURANCE REQUIREMENT.—Section 212(a)(4)  
17 (8 U.S.C. 1182(a)(4)), as amended by section 101(b) of  
18 this Act, is further amended by adding at the end the fol-  
19 lowing new subparagraph:

20 “(C) INSURANCE REQUIREMENT FOR CER-  
21 TAIN DISABLED SONS AND DAUGHTERS.—

22 “(i) IN GENERAL.—Any alien who  
23 seeks admission as a disabled son or  
24 daughter under section 101(a)(27)(L) is  
25 inadmissible unless the alien or a petition-

1           ing parent demonstrates at the time of is-  
2           suance of the visa to the satisfaction of the  
3           consular officer and at the time of admis-  
4           sion to the satisfaction of the Attorney  
5           General that the alien—

6                       “(I) will have coverage under an  
7                       adequate health insurance policy (at  
8                       least comparable to coverage provided  
9                       under the medicare program under  
10                      title XVIII of the Social Security  
11                      Act); and

12                     “(II) will have coverage with re-  
13                     spect to long-term health needs (at  
14                     least comparable to such coverage  
15                     provided under the medicaid program  
16                     under title XIX of such Act for the  
17                     State in which either the alien and the  
18                     petitioning parent will reside),  
19           throughout the period the alien resides in  
20           the United States.

21                     “(ii) FACTORS TO BE TAKEN INTO AC-  
22                     COUNT.—In making a determination under  
23                     clause (i), the Attorney General or the con-  
24                     sular officer shall take into account the age  
25                     of the disabled son or daughter, the nature

1 of the disability and impairment, and the  
2 likelihood of the son or daughter securing  
3 health insurance coverage through the peti-  
4 tioner's employment.

5 “(iii) REQUIREMENTS.—Such peti-  
6 tioning parent shall not be determined to  
7 have demonstrated that the alien will have  
8 the insurance coverage required in clause  
9 (i) unless such parent has agreed to pro-  
10 vide such coverage as part of an affidavit  
11 of support that has been executed as a  
12 contract which—

13 “(I) is legally enforceable against  
14 such parent by the sponsored son or  
15 daughter, by the Federal Government,  
16 and by any State, district, territory,  
17 or possession of the United States (or  
18 any subdivision of such State, district,  
19 territory, or possession of the United  
20 States) which provides any financial  
21 or medical assistance for which eligi-  
22 bility is based on need, and

23 “(II) otherwise satisfies the re-  
24 quirements of all Federal statutes re-  
25 lating to such sponsor affidavits of

1 support presented to satisfy the re-  
2 quirements of this section.

3 “(iv) CIVIL PENALTY.—(I) Except as  
4 otherwise provided in clause (v), any spon-  
5 sor who is determined, after notice and op-  
6 portunity for an administrative hearing,  
7 pursuant to regulations of the Attorney  
8 General, to have failed to provide the in-  
9 surance such sponsor has agreed to provide  
10 in the affidavit described in clause (iii)  
11 shall be subject to a civil penalty of \$5,000  
12 for the first such failure and \$10,000 for  
13 the second and subsequent failures, and to  
14 an administrative order requiring the pro-  
15 viding of such insurance.

16 “(II) A sponsor adversely affected by  
17 such an administrative order, may, within  
18 45 days after the date such order was is-  
19 sued (or, if an administrative appeal is  
20 available, after the conclusion of that ap-  
21 peal), file a petition in the Court of Ap-  
22 peals for the appropriate circuit for review  
23 of the order. Any such review shall be sole-  
24 ly on the administrative record, and the

1 court must affirm the order unless it is  
2 clearly erroneous.

3 “(III)(aa) If a sponsor fails to comply  
4 with an administrative order referred to in  
5 subclause (I), the Attorney General shall  
6 file a suit to seek compliance with the  
7 order in any appropriate district court of  
8 the United States.

9 “(bb) In any such suit, the determina-  
10 tion that the sponsor had not provided the  
11 insurance he had agreed to provide shall  
12 not be subject to review.

13 “(v) EXEMPTION.—A sponsor shall  
14 not be subject to the provisions of clause  
15 (iv) if the failure to provide such insurance  
16 is the result of changes in the sponsor’s fi-  
17 nancial circumstances, changes which  
18 would mean that if such insurance were  
19 provided, then the total income of the  
20 sponsor and other members of his house-  
21 hold, minus the cost of providing such in-  
22 surance, would be below the official poverty  
23 line (as defined by the Social Security Ad-  
24 ministration, and revised annually by the  
25 Secretary of Health and Human Services)

1                   that is applicable to a family the size of  
2                   the sponsor's household.”.

3           (d) LOCATION OF WORK EXPERIENCE FOR CERTAIN  
4 RELIGIOUS WORKERS.—Section 101(a)(27)(C)(iii) (8  
5 U.S.C. 1101(a)(27)(C)(iii)) is amended by inserting “out-  
6 side the United States” after “continuously”.

7 **SEC. 106. EFFECT OF APPROVED IMMIGRANT VISA PETI-**  
8 **TION.**

9           Section 221 (8 U.S.C. 1201) is amended by adding  
10 at the end the following new subsection:

11           “(j)(1) The approval by the Attorney General of a  
12 petition for classification under section 101(a)(27),  
13 201(b), 203(a), or 203(b) shall not relieve the alien of the  
14 burden of establishing to the satisfaction of the consular  
15 officer that the alien is eligible to receive an immigrant  
16 visa.

17           “(2) If the alien shall be unable to establish such eli-  
18 gibility for an immigrant visa, the consular officer may  
19 deny the visa, in his sole, unreviewable discretion and not-  
20 withstanding the presence of an approved petition, and  
21 may return the petition to the Attorney General for appro-  
22 priate action.”.

1 **SEC. 107. JUDICIAL REVIEW.**

2 Section 203 (8 U.S.C. 1153), as amended by this Act,  
3 is further amended by adding at the end the following new  
4 subsection:

5 “(i) Except as otherwise provided in section  
6 203(h)(8) and notwithstanding any other provision of law,  
7 with respect to any civil action against any agency which  
8 involves a cause or claim regarding the allocation of immi-  
9 grant visas or determinations made on immigrant visa pe-  
10 titions under this section—

11 “(1) suit must be brought within 90 days of the  
12 challenged action or determination;

13 “(2) venue shall lie only in the District Court  
14 for the District of Columbia;

15 “(3) suit may be brought only by persons who  
16 have petitioned for the issuance of an immigrant  
17 visa and have exhausted all available administrative  
18 remedies;

19 “(4) no suit may be brought to compel the  
20 agency to adjudicate a pending visa petition;

21 “(5) review of a denial of a visa petition shall  
22 be solely on the administrative record; and

23 “(6) the court—

24 “(A) must sustain the agency’s action un-  
25 less it has been shown by the petitioner to be  
26 clearly erroneous;



1           “(B) may not review any exercise of the  
2           agency’s discretion; and

3           “(C) may not reverse or remand a deter-  
4           mination on the basis, in whole or in part, that  
5           the agency’s explanation of its action was not  
6           sufficiently extensive.

7   **SEC. 108. CONFORMING AMENDMENTS AND REPEALS.**

8           (a) Section 204(a)(1)(A)(i) is amended by striking  
9           “paragraph (1), (3), or (4) of”.

10          (b) The following sections of the Immigration and  
11          Nationality Act are amended by striking “203(a)(2)” each  
12          place it appears and inserting in lieu thereof “203(a)”:  
13          sections 204(a)(1)(B)(i), 204(a)(2)(A), 212(a)(6)(E)(ii),  
14          216(g)(1)(C), and 241(a)(1)(E)(ii).

15          (c) The following provisions of the Immigration and  
16          Nationality Act are amended by striking “203(a)(2)(A)”  
17          each place it appears and inserting in lieu thereof  
18          “203(a)”:       Sections       204(a)(1)(B)(ii),       and  
19          204(a)(1)(B)(iii).

20          (d) Section 154(b)(1)(B)(i) of the Immigration Act  
21          of 1990 is amended by striking “203(b)(1)” each place  
22          it appears and inserting in lieu thereof “203(b)(1)(A) and  
23          (B)”.

1 (e) Section 204(a)(1)(D) is amended by striking “,  
2 203(b)(1)(C), 203(b)(2), or 203(b)(3)” and inserting in  
3 lieu thereof “or 203(b)(2)”.

4 (f) Section 206(a) of the Immigration Act of 1990  
5 is amended by striking “203(b)(1)(C)” and inserting  
6 “203(b)(1)(B)”.

7 (g) Section 204(b) is amended by striking “section  
8 203(b)(2) or 203(b)(3)” and inserting in lieu thereof  
9 “subparagraph (A), (B), or (C) of section 203(b)(2)”.

10 (h) Section 212(a)(5)(C) is amended by striking “or  
11 (3)”.

12 (i) Section 204(a)(1)(E)(i) is amended by striking  
13 “section 203(b)(4)” and inserting in lieu thereof “section  
14 203(b)(1)(D)”.

15 (j) Section 245(i)(3) is amended by striking  
16 “203(b)(4)” and inserting in lieu thereof “203(b)”.

17 (k) Section 204(a)(1)(F) is amended by striking  
18 “203(b)(5)” and inserting in lieu thereof “203(b)(1)(C)”.

19 (l) Sections 216A(b)(1)(C) and 216A(f)(1) are each  
20 amended by striking “203(b)(5)” each place it appears  
21 and inserting in lieu thereof “203(b)(1)(C)”.

22 (m) Section 610 of Public Law 102–395 is amend-  
23 ed—

1           (1) in subsections (a) and (b), by striking  
2           “203(b)(5)” each place it appears and inserting in  
3           lieu thereof “203(b)(1)(C)”; and

4           (2) in subsection (c), by striking “section  
5           203(b)(5)(A)(iii)” and inserting in lieu thereof “sec-  
6           tion 203(b)(1)(C)(iii)”.

7           (n) Public Law 102–509 is amended—

8           (1) by striking section 3 and redesignating the  
9           section 4 as section 3;

10          (2) in subsection (a) of section 3, as redesign-  
11          nated—

12                 (A) by striking “expertise” and inserting  
13                 in lieu thereof “education and experience”; and

14                 (B) by striking “who possess ‘exceptional  
15                 ability in the sciences’, for purposes of” and in-  
16                 serting in lieu thereof “described in”.

17   **SEC. 109. TRANSITION.**

18          Any petition filed under section 204(a) of the Immi-  
19          gration and Nationality Act before October 1, 1996—

20                 (1) for preference status under section  
21                 203(a)(2) of such Act (as in effect before such date)  
22                 for qualified immigrants who are the spouses or chil-  
23                 dren of an alien lawfully admitted for permanent  
24                 residence; and

1           (2) for preference status under section  
2       203(b)(1)(C),       203(b)(2),       203(b)(3)(A)(i),  
3       203(b)(3)(A)(ii), 203(b)(4), and 203(b)(5) of such  
4       Act (as in effect before such date),  
5 shall be deemed, as of such date, to be a petition filed  
6 under such section for preference status under section  
7 203(a),   203(b)(1)(B),   203(b)(2)(A),   203(b)(2)(B),  
8 203(b)(2)(C), 203(b)(1)(D), and 203(b)(1)(C), respec-  
9 tively, of such Act (as amended by this Act).

10       **Subtitle B—Changes in Numerical**  
11       **Limitations on Immigrants**

12       **SEC. 111. WORLDWIDE NUMERICAL LIMITATION ON FAM-**  
13       **ILY-SPONSORED IMMIGRATION.**

14       Subsection (c) of section 201 (8 U.S.C. 1151) is  
15 amended to read as follows:

16       “(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED  
17 IMMIGRANTS.—The worldwide level of family-sponsored  
18 immigrants under this subsection for a fiscal year is equal  
19 to 85,000, plus the number, if any, specified in section  
20 114 of the Immigration Reform Act of 1995.”.

21       **SEC. 112. WORLDWIDE NUMERICAL LIMITATION ON EM-**  
22       **PLOYMENT-BASED IMMIGRATION.**

23       Subsection (d) of section 201 (8 U.S.C. 1151) is  
24 amended to read as follows:

1       “(d) WORLDWIDE LEVEL OF EMPLOYMENT-BASED  
2 IMMIGRANTS.—The worldwide level of employment-based  
3 immigrants under this subsection for a fiscal year is equal  
4 to 90,000.”.

5       **SEC. 113. NUMERICAL LIMITATION ON IMMIGRATION FROM**  
6                               **A SINGLE FOREIGN STATE.**

7       (a) In section 202(a), strike paragraphs (2) through  
8 (4), and insert in lieu thereof the following:

9               “(2) PER COUNTRY LEVELS FOR FAMILY-SPON-  
10       SORED AND EMPLOYMENT-BASED IMMIGRANTS.—(A)  
11       Subject to subparagraph (C), the total number of  
12       immigrant visas made available in any fiscal year to  
13       natives of any single foreign state or dependent area  
14       under section 203 (a) and (b) may not exceed the  
15       difference (if any) between—

16               “(i) 20,000 in the case of any foreign state  
17               (or 5,000 in the case of a dependent area) not  
18               contiguous to the United States, or 40,000 in  
19               the case of any foreign state contiguous to the  
20               United States; and

21               “(ii) the amount specified in subparagraph  
22               (B).

23               “(B) The amount specified in this subpara-  
24       graph is the amount by which the total of the num-  
25       ber of immediate relatives admitted in the prior fis-

1 cal year who are natives of such state or dependent  
2 area exceeded 20,000 in the case of any foreign  
3 state (or 5,000 in the case of a dependent area) not  
4 contiguous to the United States, or 40,000 in the  
5 case of any foreign state contiguous to the United  
6 States.

7 “(C) In any fiscal year in which immigrant visa  
8 numbers are made available under section 114(a) of  
9 the Immigration Reform Act of 1995, the per coun-  
10 try limitation specified in subparagraph (A) shall not  
11 apply to aliens who are allotted visas under section  
12 203(a), except that the number of immigrant visas  
13 made available to the natives of any foreign state or  
14 dependent area under section 203(a) for such fiscal  
15 year shall be subtracted from the level specified in  
16 subparagraph (A) for purposes of the application of  
17 such level to immigrants from such state or area  
18 under section 203(b) for such fiscal year.”.

19 (b) In section 202(e), strike all after “in a manner  
20 so that” and insert in lieu thereof the following: “visa  
21 numbers are made available first under sections 203(a),  
22 second under section 203(b)(1)(A), third under section  
23 203(b)(1)(B), fourth under section 203(b)(1)(C), fifth  
24 under section 203(b)(1)(D), sixth under section

1 203(b)(2)(A), seventh under section 203(b)(2)(B), and  
2 eighth under section 203(b)(2)(C).”.

3 **SEC. 114. TRANSITION FOR CERTAIN BACKLOGGED**  
4 **SPOUSES AND CHILDREN OF LAWFUL PER-**  
5 **MANENT RESIDENTS.**

6 (a) IN GENERAL.—(1) In addition to any immigrant  
7 visa numbers otherwise available, additional immigrant  
8 visa numbers shall be made available in each fiscal year  
9 beginning on or after October 1, 1996, in which an alien  
10 who has a petition approved for classification under sec-  
11 tion 203(a) of the Immigration and Nationality Act (as  
12 amended by this Act) as of the date of enactment of this  
13 Act could not otherwise receive a visa, in an amount equal  
14 to the number specified in paragraph (2).

15 (2) The number specified in this paragraph is—

16 (A) in the first fiscal year beginning after  
17 the date of enactment of this Act, 150,000, and

18 (B) in any subsequent fiscal year in which  
19 numbers are available under paragraph (1), the  
20 lesser of—

21 (i) 150,000, and

22 (ii) the number which is the difference  
23 between—

24 (I) the total level of family-spon-  
25 sored immigration under section

1                   203(a) and section 201(b)(2)(A)(i) in  
2                   the prior fiscal year; and

3                   (II) the total level of family-spon-  
4                   sored immigration under sections  
5                   203(a) and 201(b)(2)(A)(i) in fiscal  
6                   year 1995.

7           (b) ORDER OF PRIORITY.—Visa numbers that are  
8   made available under this section for aliens who have peti-  
9   tions approved for classification under section 203(a) of  
10 the Immigration and Nationality Act (as amended by this  
11 Act) shall be made available—

12           (1) first to aliens for whom the petitioning alien  
13   did not become an alien lawfully admitted for per-  
14   manent residence through the operation of section  
15   210 or 245A of the Immigration and Nationality  
16   Act, in the order in which a petition for such classi-  
17   fication, in behalf of each such alien, is filed with  
18   the Attorney General under section 204 of such Act;  
19   and

20           (2) second, if there are any remaining numbers,  
21   to aliens for whom the petitioning alien did become  
22   an alien lawfully admitted for permanent residence  
23   through the operation of section 210 or 245A of  
24   such Act, in the order in which a petition for such  
25   classification, in behalf of each such alien, is filed



1 with the Attorney General under section 204 of such  
2 Act.

3 (c) EXEMPTION FROM PER COUNTRY LIMITATION.—  
4 The additional visa numbers provided under this section  
5 shall not be subject to the numerical limitations of section  
6 202(a).

7 **SEC. 115. CONGRESSIONAL REVIEW OF NUMERICAL LIM-**  
8 **TATIONS.**

9 (a) HEARINGS.—(1) After the date specified in para-  
10 graph (2), the Committee on the Judiciary of the House  
11 of Representatives and the Committee on the Judiciary  
12 of the Senate shall each hold a hearing on the issue of  
13 whether one or more of the numerical limitations specified  
14 in section 201(c), 201(d)(1), 203(a), or 203(b) of the Im-  
15 migration and Nationality Act should be changed.

16 (2) The date specified in this paragraph is the later  
17 of—

18 (A) the end of the fifth fiscal year beginning  
19 after the effective date of this Act; or

20 (B) the date on which the number of aliens who  
21 have had petitions approved for classifications under  
22 section 203(a) of the Immigration and Nationality  
23 Act (as amended by this Act) as of the date of en-  
24 actment of this Act, but with respect to whom no

1 visa number has yet become available, has declined  
2 to a level of 10,000.

3 (b) EXPEDITED PROCEDURES.—

4 (1) EXERCISE OF RULE MAKING POWER.—  
5 Paragraphs (2), (3), and (4) are enacted—

6 (A) as an exercise of the rulemaking power  
7 of the Senate and the House of Representa-  
8 tives, respectively, and as such they are deemed  
9 a part of the rules of each respective House,  
10 but applicable only with respect to the proce-  
11 dure to be followed in the case of a bill de-  
12 scribed in paragraph (2), and supersede the  
13 other rules only to the extent that such sub-  
14 sections are inconsistent therewith; and

15 (B) with full recognition of the constitu-  
16 tional right of either House to change such  
17 rules at any time, in the same manner and to  
18 the same extent as in the case of any other rule  
19 of that House.

20 (2) COMMITTEE ACTION.—If, within 30 days  
21 after the conclusion of a hearing of the Committee  
22 on the Judiciary of the House of Representatives or  
23 the Committee on the Judiciary of the Senate re-  
24 ferred to in subsection (a), a bill directed solely to  
25 a change in one or more of the numerical limitations

1 referred to in subsection (a) is reported by the Com-  
2 mittee that held the hearing to the Senate or House  
3 of Representatives, as the case may be, the proce-  
4 dure specified in paragraphs (3) and (4) shall be fol-  
5 lowed.

6 (3) FLOOR CONSIDERATION.—(A) After the  
7 Committee has reported a bill as provided in para-  
8 graph (2), a motion to proceed to the consideration  
9 of the bill shall be highly privileged and is not debat-  
10 able. The motion shall not be subject to amendment,  
11 or to a motion to postpone, or to a motion to pro-  
12 ceed to the consideration of other business. A motion  
13 to reconsider the vote by which the motion is agreed  
14 to or disagreed to shall not be in order. If a motion  
15 to proceed to the consideration of the bill is agreed  
16 to, the resolution shall remain the unfinished busi-  
17 ness of the respective House until disposed of.

18 (B) Debate on the bill, and all debatable mo-  
19 tions and appeals in connection therewith, shall be  
20 limited to no more than 10 hours, to be equally di-  
21 vided in the Senate between, and controlled by, the  
22 majority leader and the minority leader or their des-  
23 ignees and to be equally divided in the House of  
24 Representatives between individuals favoring and in-  
25 dividuals opposed to the bill. A motion further to

1 limit debate is in order and not debatable. An  
2 amendment to, or a motion to postpone, or a motion  
3 to proceed to the consideration of other business, or  
4 a motion to recommit the resolution, is not in order.  
5 A motion to reconsider the vote by which the bill is  
6 passed or rejected shall not be in order.

7 (C) Immediately following the conclusion of the  
8 debate on the bill, and a single quorum call at the  
9 conclusion of the debate if requested in accordance  
10 with the rules of the appropriate House, the vote on  
11 final passage of the bill shall occur.

12 (D) Appeals from the decisions of the Chair re-  
13 lating to the application of the rules of the Senate  
14 or the House of Representatives, as the case may be,  
15 to the procedure relating to the bill shall be decided  
16 without debate.

17 (4) RECEIPT OF BILL FROM OTHER HOUSE.—  
18 If, prior to the passage by one House of a bill of  
19 that House described in paragraph (2), that House  
20 receives a bill described in paragraph (2) from the  
21 other House, then—

22 (A) the procedure in that House shall be  
23 the same as if no such bill had been received  
24 from the other House; but

1 (B) the vote on final passage shall be on  
 2 the bill of the other House.

## 3 **TITLE II—NONIMMIGRANTS**

### 4 **SEC. 201. CHANGES IN H AND L CLASSIFICATIONS.**

5 (a) INTENT.—(1) Section 101(a)(15)(H) (8 U.S.C.  
 6 1101(a)(15)(H)) is amended in subclause (i)(b) by insert-  
 7 ing after “section 212(j)(2),” the following: “having a res-  
 8 idence in a foreign country which he has no intention of  
 9 abandoning”.

10 (2) Section 101(a)(15)(L) (8 U.S.C. 1101(a)(15)(L))  
 11 is amended by inserting after “an alien” the following:  
 12 “having a residence in a foreign country which he has no  
 13 intention of abandoning”.

14 (3) Section 214(b) (8 U.S.C. 1184(b)) is amended  
 15 by striking “(other than a nonimmigrant described in sub-  
 16 paragraph (H)(i) or (L) of section 101(a)(15))”.

17 (b) DURATION.—(1) Section 214(c)(2)(D) (8 U.S.C.  
 18 1184(c)(2)(D)) is amended by striking all that follows  
 19 after “admission for” and inserting in lieu thereof the fol-  
 20 lowing: “a nonimmigrant admitted to render services  
 21 under section 101(a)(15)(L) shall not exceed 3 years.”.

22 (2) Section 214(g)(4) is amended—

23 (A) by inserting “or section  
 24 101(a)(15)(H)(ii)(b)” after “section  
 25 101(a)(15)(H)(i)(b)”;

1 (B) by striking “6 years” and inserting in lieu  
2 thereof “3 years”.

3 **SEC. 202. CHANGES IN H-1B CLASSIFICATION.**

4 (a) FEE.—Section 212(n) (8 U.S.C. 1182(n)) is  
5 amended by adding at the end the following new para-  
6 graph:

7 “(3)(A) No alien may be admitted or provided status  
8 as a nonimmigrant described in section  
9 101(a)(15)(H)(i)(b) unless the Secretary of Labor has de-  
10 termined and certified to the Secretary of State and the  
11 Attorney General that the employer who is seeking the  
12 services of such alien has paid a fee—

13 “(i) which is a percent of the value of the an-  
14 nual compensation (including wages, benefits, and  
15 all other compensation) to be paid to the alien whose  
16 services are being sought, equal to 5 percent in the  
17 first year, 7.5 percent in the second year, and 10  
18 percent in the third year; and

19 “(ii) which is paid by the petitioning employer  
20 into a private fund certified by the Secretary of  
21 Labor as dedicated to the goal of increasing the  
22 competitiveness of workers who are citizens or lawful  
23 permanent residents of the United States and reduc-  
24 ing the dependence of employers on new foreign

1 workers, by making grants for education or training,  
 2 or for other purposes consistent with such goal.

3 “(B)(i) It is unlawful for a petitioning employer to  
 4 require, as a condition of employment by such employer,  
 5 or otherwise, that the fee described in this paragraph, or  
 6 any part of it, be paid directly or indirectly by the alien  
 7 whose services are being sought.

8 “(ii) Any person or entity which is determined, after  
 9 notice and opportunity for an administrative hearing, to  
 10 have violated clause (i) shall be subject to a civil penalty  
 11 of \$5,000 for each violation, to an administrative order  
 12 requiring the payment of the fee described in this para-  
 13 graph, and to disqualification for 1 year from petitioning  
 14 under section 204 or 214(c).

15 “(iii) Any amount determined to have been paid, di-  
 16 rectly or indirectly, to the fund by the alien whose services  
 17 were sought, shall be repaid from the fund to such alien.”.

18 (b) ATTESTATIONS.—

19 (1) WAGE LEVEL.—Section 212(n)(1) (8  
 20 U.S.C. 1182(n)(1)) is amended in subparagraph  
 21 (A)(i)—

22 (A) by striking “wages that are at least”  
 23 and inserting in lieu thereof the following:  
 24 “compensation (including wages, benefits, and

1 all other compensation) that is equal in value to  
 2 at least ”;

3 (B) by striking “the actual wage level” and  
 4 inserting in lieu thereof the following: “100 per-  
 5 cent of the prevailing level of compensation (in-  
 6 cluding wages, benefits, and all other compensa-  
 7 tion)”;

8 (C) by striking “the prevailing wage level”  
 9 and inserting in lieu thereof the following: “105  
 10 percent of the prevailing level of compensation  
 11 (including wages, benefits, and all other com-  
 12 pensation)”.

13 (2) DISPLACEMENT OF UNITED STATES WORK-  
 14 ERS.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)) is  
 15 amended by inserting after subparagraph (D) the  
 16 following new subparagraph:

17 “(E)(i) The employer—

18 “(I) within the 6 months preceding the  
 19 date of filing the application, has not laid off  
 20 any protected individual (within the meaning of  
 21 section 274B(a)(3)) with substantially equiva-  
 22 lent, or greater, qualifications (including experi-  
 23 ence) for the specific employment for which the  
 24 nonimmigrant is being sought, unless the em-  
 25 ployer pays to the nonimmigrant actual com-



1           pensation equal in value to at least 105 percent  
2           of the arithmetic mean of the value of the last  
3           compensation (including wages, benefits, and all  
4           other compensation) earned by the laid off em-  
5           ployees (or, if greater, 105 percent of the arith-  
6           metic mean of the highest compensation (in-  
7           cluding wages, benefits, and all other compensa-  
8           tion) earned by such laid off employees within  
9           the most recent year, if the employer reduced  
10          compensation of the laid off employees during  
11          such year and such reduction was not part of  
12          a general company-wide reduction of compensa-  
13          tion for substantially all employees); and

14               “(II) within the 90 days following the date  
15           of filing the application, and for so long as the  
16           application remains active or a visa remains in  
17           effect with respect to a nonimmigrant pursuant  
18           to such an application, will not lay off any pro-  
19           tected individual (within the meaning of section  
20           274B(a)(3)) with substantially equivalent, or  
21           greater, qualifications (including experience) for  
22           the specific employment for which the non-  
23           immigrant is employed, unless the employer  
24           pays to the immigrant actual compensation  
25           equal in value to at least 105 percent of the

1 arithmetic mean of the value of the last com-  
2 pensation (including wages, benefits, and all  
3 other compensation) earned by the laid off em-  
4 ployees (or, if greater, 105 percent of the arith-  
5 metic mean of the highest compensation (in-  
6 cluding wages, benefits, and all other compensa-  
7 tion) earned by such laid off employees within  
8 the most recent year, if the employer reduced  
9 compensation of the laid off employees during  
10 such year and such reduction was not part of  
11 a general company-wide reduction of compensa-  
12 tion for substantially all employees).

13 “(ii) For purposes of this subparagraph, the  
14 term ‘laid off’, with respect to an employee, means  
15 the employee’s loss of employment, other than a dis-  
16 charge for cause or a voluntary departure or vol-  
17 untary retirement.”.

18 (3) RECRUITMENT OF UNITED STATES WORK-  
19 ERS.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)), as  
20 amended by this Act, is further amended by insert-  
21 ing after subparagraph (E) the following new sub-  
22 paragraph:

23 “(F) The employer, prior to filing the applica-  
24 tion, attempted to recruit a citizen of the United  
25 States or an alien lawfully admitted for permanent

1 residence for the job that will be done by the alien  
 2 whose services are being sought, using recruitment  
 3 procedures that meet industry-wide standards and  
 4 offering compensation equal in value to at least—

5 “(i) 100 percent of the actual level of com-  
 6 pensation (including wages, benefits, and all  
 7 other compensation) paid by the employer to all  
 8 other individuals with similar experience and  
 9 qualifications for the specific employment in  
 10 question; or

11 “(ii) 105 percent of the level of compensa-  
 12 tion (including wages, benefits, and all other  
 13 compensation) prevailing for individuals in such  
 14 employment in the area of employment,

15 whichever is greater, based on the best information  
 16 available as of the date of filing the application.”.

17 (4) STEPS TO END DEPENDENCE ON FOREIGN  
 18 WORKERS.—Section 212(n)(1) (8 U.S.C.  
 19 1182(n)(1)), as amended by this Act, is further  
 20 amended by inserting after subparagraph (F) the  
 21 following new subparagraph:

22 “(G)(i) The employer has taken, and is taking,  
 23 timely, significant, and effective steps to recruit and  
 24 retain sufficient United States workers, in order to  
 25 remove as quickly as reasonably possible the depend-

1       ence of the employer on nonimmigrant foreign work-  
2       ers.

3           “(ii) For purposes of clause (i), each of the fol-  
4       lowing shall be considered a significant step reason-  
5       ably designed to recruit and retain workers who are  
6       United States citizens or lawful permanent resident  
7       aliens:

8           “(I) Operating a program of training exist-  
9       ing employees who are U.S. citizens or lawful  
10      permanent resident aliens in the skills needed  
11      by the employer, or financing (or otherwise pro-  
12      viding for) employees’ participation in such a  
13      training program elsewhere.

14          “(II) Providing career development pro-  
15      grams and other methods of facilitating workers  
16      in related fields to acquire the skills needed by  
17      the employer.

18          “(III) Paying to employees who are United  
19      States citizens or lawful permanent resident  
20      aliens compensation that is equal in value to  
21      more than 105 percent of what is paid to per-  
22      sons similarly employed in the geographic area.

23          “(IV) Providing facilities and services to  
24      increase the productivity of employees, in order

1 to decrease the number of persons with the de-  
2 sired skills who are needed.

3 “(V) Providing reasonable opportunities  
4 for meaningful increases in compensation by  
5 employees who are United States citizens or  
6 lawful permanent resident aliens who have the  
7 needed skills.

8 The steps described in this clause shall not be con-  
9 sidered to be an exhaustive list of the significant  
10 steps that may be taken to meet the requirements of  
11 clause (i).

12 “(iii) Such steps shall not be considered effec-  
13 tive if the employer has failed to decrease by at least  
14 10 percent in two consecutive years the percentage  
15 of the employer’s total number of employees in the  
16 specific employment in which the nonimmigrant  
17 workers are employed, which is represented by the  
18 number of such nonimmigrant workers.”.

19 (5) JOB CONTRACTORS.—(A) Section 212(n)(1)  
20 (8 U.S.C. 1182(n)(1)), as amended by this Act, is  
21 further amended by inserting after subparagraph  
22 (G) the following new subparagraph:

23 “(H) In the case of an employer that is a job  
24 contractor (within the meaning of regulations pro-  
25 mulgated by the Secretary of Labor to carry out this

1 subsection), the contractor will not place the em-  
 2 ployee with another employer unless such other em-  
 3 ployer has executed an attestation that the employer  
 4 is complying and will continue to comply with the re-  
 5 quirements of this paragraph in the same manner as  
 6 they apply to the job contractor.”.

7 (B) Section 212(n)(2) (8 U.S.C. 1182(n)(2)),  
 8 as amended by this Act, is further amended by add-  
 9 ing at the end the following new subparagraph:

10 “(E) The provisions of this paragraph  
 11 shall apply to complaints respecting a failure of  
 12 another employer to comply with an attestation  
 13 described in paragraph (1), that has been made  
 14 as the result of the requirement imposed on job  
 15 contractors under paragraph (1)(H), in the  
 16 same manner that they apply to complaints of  
 17 a petitioner with respect to a failure to comply  
 18 with a condition described in paragraph (1) by  
 19 employers generally.”.

20 (c) EXPERIENCE REQUIREMENT.—Section 214(i)(2)  
 21 (8 U.S.C. 1184(i)(2)) is amended—

22 (1) in subparagraph (B), by striking “or” and  
 23 inserting in lieu thereof “and”; and

24 (2) in subparagraph (C), by striking “(i)” and  
 25 all that follows through “to the specialty” and in-

1       serting in lieu thereof the following: “2 years experi-  
 2       ence in the specialty outside the United States after  
 3       obtaining the most recently received bachelor’s or  
 4       higher degree”.

5       (d) PREVAILING WAGE.—Section 212(n), as amend-  
 6       ed by this Act, is further amended by adding at the end  
 7       the following new paragraph:

8               “(4) The prevailing level of compensation for an  
 9       occupational classification in an area of employment  
 10      for purposes of paragraph (1) and of subsection  
 11      (a)(5) shall not be considered to vary depending on  
 12      the characteristics of the employer (including wheth-  
 13      er or not the employer is an institution of higher  
 14      education or a related or affiliated nonprofit entity),  
 15      except, pursuant to regulations of the Secretary of  
 16      Labor, to the extent there is a difference in either—

17               “(A) working conditions, including the  
 18      presence or absence of conditions that could  
 19      reasonably be expected to affect the wage that  
 20      would have to be paid; or

21               “(B) functional requirements of the job.”.

22   **SEC. 203. CHANGES IN L CLASSIFICATION.**

23       (a) Section 101(a)(15)(L) is amended to read as fol-  
 24      lows:

25       “(L) an alien—

1           “(i) who, in the 5 years preceding the time  
2           of the alien’s application for admission into the  
3           United States, either has been employed outside  
4           the United States for at least 3 years by a mul-  
5           tinational firm (as defined in section  
6           203(b)(1)(B)(ii)) in a capacity that is manage-  
7           rial, executive, or involves specialized knowl-  
8           edge, or has been employed outside the United  
9           States in such a capacity both for at least 1  
10          year by a multinational firm, and for at least  
11          3 years by one or more other multinational  
12          firms; and

13          “(ii) who seeks to enter the United States  
14          in order to continue to render services to the  
15          same multinational firm, or to a subsidiary or  
16          other affiliate (under substantially common  
17          ownership) thereof, in such a capacity, and the  
18          alien spouse and minor children of any such  
19          alien if accompanying him or following to join  
20          him;”.

21          (b) Section 214(c)(2)(B) (8 U.S.C. 1184(c)(2)(B)) is  
22          amended by inserting before the period at the end the fol-  
23          lowing: “, except that such special knowledge or advanced  
24          level of knowledge may not be taken into account for pur-  
25          poses of that section if it is common in the industry.”.



1 **SEC. 204. CHANGES IN B, F, J, AND M CLASSIFICATIONS.**

2 (a) ADMISSION OF STUDENT VISA HOLDERS.—Sec-  
3 tion 214 (8 U.S.C. 1184) is amended by adding at the  
4 end the following new subsection:

5 “(l)(1) A nonimmigrant under section 101(a)(15) (F)  
6 or (M) shall be admitted for the proposed period of study  
7 at the specified academic level. A student shall be expected  
8 to make normal progress toward obtaining his or her di-  
9 ploma or degree. The Attorney General may, however,  
10 grant a limited extension of stay to allow the student to  
11 complete studies beyond the period normally required.

12 “(2) A nonimmigrant under section 101(a)(15)(J)  
13 shall be admitted for the proposed period of participation  
14 in the sponsoring exchange program.”.

15 (b) PERSONS ELIGIBLE FOR STUDENT VISAS.—(1)  
16 Section 101(a)(15)(B) (8 U.S.C. 1101(a)(15)(B)) is  
17 amended by inserting after “study” the following: “(except  
18 for the purpose of English language training of six months  
19 or less)”.

20 (2) Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F))  
21 is amended—

22 (A) in clause (i)—

23 (i) by inserting after “such a course of  
24 study” the following: “(other than English lan-  
25 guage training of six months or less)”; and

1 (ii) by striking “academic high school, ele-  
 2 mentary school, or other academic institution or  
 3 in a language training program”, and inserting  
 4 in lieu thereof the following: “private elemen-  
 5 tary or academic secondary school, or post-  
 6 secondary academic institution, or in a lan-  
 7 guage-training program”; and

8 (B) by inserting before the semicolon at the end  
 9 of clause (ii) the following: “: *Provided*, That noth-  
 10 ing in this paragraph shall be construed to prevent  
 11 a child who is present in the United States in a non-  
 12 immigrant status other than that conferred by sec-  
 13 tion 101(a)(15) (B), (C), (F)(i), or (M)(i), from  
 14 seeking admission to a public elementary or second-  
 15 ary school for which such child may otherwise be  
 16 qualified.”.

17 **SEC. 205. PILOT PROGRAM ON INFORMATION AND TRACK-**  
 18 **ING SYSTEM RELATING TO NONIMMIGRANT**  
 19 **FOREIGN STUDENTS.**

20 (a) IN GENERAL.—Not later than January 1, 1998,  
 21 the Attorney General and the Secretary of State shall  
 22 jointly develop and conduct a pilot program to collect elec-  
 23 tronically from approved colleges and universities in the  
 24 United States the information described in subsection (c)  
 25 with respect to aliens with the status, or seeking the sta-

1 tus, of nonimmigrants under section 101(a)(15) (F), (J),  
2 or (M) of the Immigration and Nationality Act (8 U.S.C.  
3 1101(a)(15) (F), (J), or (M)).

4 (b) COVERED COUNTRIES.—The pilot program estab-  
5 lished under subsection (a) shall cover the nationals of  
6 countries selected jointly by the Attorney General and the  
7 Secretary of State. The Attorney General and the Sec-  
8 retary shall initially select not less than five countries and  
9 may select additional countries at any time while the pro-  
10 gram is being conducted.

11 (c) INFORMATION TO BE COLLECTED.—Under the  
12 pilot program, the Attorney General and the Secretary of  
13 State shall collect all of the following information:

14 (1) Whether an alien applying for a visa, or for  
15 entry into the United States, as a student under the  
16 provisions of section 101(a)(15) (F), (J), or (M) of  
17 the Immigration and Nationality Act has been is-  
18 sued a certificate of eligibility by an approved college  
19 or university, and the name of each such college or  
20 university.

21 (2) The date on which a visa was issued to an  
22 alien under section 101(a)(15) (F), (J), or (M) of  
23 such Act, the place at which such visa was issued,  
24 the category of such visa, and the name of the col-  
25 lege or university for which such visa was issued.

1           (3) Whether an alien is enrolled in an approved  
2 college or university in the United States, and the  
3 name of each such college or university.

4           (4) The current address in the United States of  
5 aliens with the status, or seeking the status, of  
6 nonimmigrants under section 101(a)(15) (F), (J), or  
7 (M) of such Act.

8           (5) Whether an alien with the status, or seeking  
9 the status, of a nonimmigrant under section  
10 101(a)(15) (F), (J), or (M) of such Act is a student  
11 in good standing at an approved college or univer-  
12 sity, who is pursuing a full course of study and is  
13 making normal progress toward a degree, or has  
14 withdrawn, been expelled, suspended, or placed on  
15 academic probation, or has transferred, graduated,  
16 or his attendance has otherwise terminated.

17           (6) Whether an alien with the status, or seeking  
18 the status, of a nonimmigrant under section  
19 101(a)(15) (F), (J), or (M) of such Act has been ex-  
20 pelled, suspended, placed on academic probation, or  
21 subjected to other disciplinary action, by an ap-  
22 proved college or university as the result of being  
23 convicted of a crime.

24           (d) DISSEMINATION OF INFORMATION.—(1) The Sec-  
25 retary of State shall make available the information col-

1 lected under the program to embassies and consulates of  
2 the United States designated by the Secretary.

3 (2) The Attorney General shall make available such  
4 information to immigration officers designated by the At-  
5 torney General.

6 (e) FUNDING.—(1)(A)(i) The Secretary of State shall  
7 impose and collect a processing fee on all visas issued  
8 under the provisions of section 101(a)(15) (F) or (M) of  
9 the Immigration and Nationality Act.

10 (ii) The Attorney General shall impose and collect a  
11 processing fee on all changes of status to such classifica-  
12 tions.

13 (iii) The Secretary and the Attorney General shall  
14 commence imposing and collecting such fees on April 1,  
15 1997.

16 (B) Except as provided in subsection (g)(2), the  
17 amount of the fee imposed and collected under subpara-  
18 graph (A) shall be jointly determined by the Attorney Gen-  
19 eral and the Secretary and may be in any amount not in  
20 excess of \$100.

21 (2) The Attorney General and the Secretary shall use  
22 funds collected under paragraph (1) to pay for the costs  
23 of carrying out the program.

24 (3) Funds collected under paragraph (1) shall be  
25 available to the Attorney General and the Secretary, with-

1 out regard to appropriation Acts and without fiscal year  
2 limitation, to supplement funds otherwise available to the  
3 Department of Justice and the Department of State.

4 (f) JOINT REPORT.—Not later than five years after  
5 the commencement of the pilot program under subsection  
6 (a), the Attorney General and the Secretary of State shall  
7 jointly submit to the Committees on the Judiciary of the  
8 Senate and the House of Representatives a report on the  
9 pilot program and the feasibility of expanding the program  
10 to cover the nationals of all countries.

11 (g) WORLDWIDE APPLICABILITY OF PROGRAM.—  
12 (1)(A) Not later than six months after the submission of  
13 the report required by subsection (f), the Attorney General  
14 and the Secretary of State shall jointly commence expan-  
15 sion of the pilot program to cover the nationals of all coun-  
16 tries.

17 (B) Such expansion shall be completed not later than  
18 one year after the date of the submission of the report  
19 referred to in subsection (f).

20 (2) After the program has been expanded, as pro-  
21 vided in paragraph (1), the Attorney General and the Sec-  
22 retary may, on a periodic basis, jointly revise the amount  
23 of the processing fee imposed and collected under the pro-  
24 gram, in order to take into account changes in the cost  
25 of carrying out the program.

1 (h) PARTICIPATION BY COLLEGES AND UNIVER-  
 2 SITIES.—(1) The information specified in subsection (c)  
 3 shall be provided by approved colleges and universities as  
 4 a condition of their approval under section 101(a)(15) (F)  
 5 or (M) of the Immigration and Nationality Act, or of the  
 6 issuance of visas to aliens for purposes of studying, or oth-  
 7 erwise participating, at such colleges and universities in  
 8 a program under section 101(a)(15)(J) of such Act.

9 (2) If an approved college or university fails to pro-  
 10 vide the specified information, such approval and such is-  
 11 suance of visas shall be revoked or denied.

## 12 **TITLE III—EFFECTIVE DATE**

### 13 **SEC. 301. EFFECTIVE DATE.**

14 Except as otherwise provided in this Act, this Act,  
 15 and the amendments made by this Act, shall take effect  
 16 on October 1, 1996.



S 1394 IS—2

S 1394 IS—3

S 1394 IS—4

S 1394 IS—5

S 1394 IS—6